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Supreme Court, U.S.
FILED

No. 04-887 SEP 8 - 2004

OFFICE OF THE CLERK

IN THE

SUPREME COURT OF THE UNITED STATES

Soeoth – Agustino, Raymond Gerald and Mumu Cindy

Petitioner

vs.

John Ashcroft, Attorney General of the United States

Respondent

APPENDIX FOR PETITION OF WRIT OF CERTIORARI TO

Court of Appeals for the Ninth Circuit

APPENDIX FOR PETITION FOR WRIT OF CERTIORARI

Soeoth-Agustino, Cindy Mumu
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APPENDIX A

FILED

JUN 14 2004

CATHY A. CATTERSON, C
U.S. COURT OF APPEA

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

MUMU CINDY SOETH; et al.,

Petitioners,

v.

JOHN ASHCROFT, Attorney General,

Respondent.

No. 03-70303

Agency No. A75-696-058

MEMORANDUM*

On Petition for Review of an Order of the
Board of Immigration Appeals

Submitted June 10, 2004**
Pasadena, California

Before: TROTT, RYMER, and THOMAS, Circuit Judges.

Mumu Cindy Soeth and Raymond Gerald Soeth, wife and husband and natives and citizens of Indonesia, petition for review of the Board of Immigration

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* This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by Ninth Circuit Rule 36-3.

** This panel unanimously finds this case suitable for decision without oral argument. See Fed. R. App. P. 34(a)(2).

Appeals' ("BIA") summary affirmance without opinion of an Immigration Judge's ("IJ") denial of their applications for asylum, withholding of removal, and relief under the Convention Against Torture ("CAT"). We have jurisdiction under 8 U.S.C. § 1252(a)(1), and we deny the petition for review.

Where the BIA affirms the decision of the IJ without opinion, under 8 C.F.R. § 3.1(e)(4) (now 8 C.F.R. § 1003.1(e)(7)), we review the IJ's decision. *See Falcon Carriche v. Ashcroft,* 350 F.3d 845, 855 (9th Cir. 2003). We review the IJ's denial of eligibility for asylum, withholding of removal, and CAT relief for substantial evidence. *Alvarez-Santos v. INS,* 332 F.3d 1245, 1253-54 (9th Cir. 2002); *Zheng v. Ashcroft,* 332 F.3d 1186, 1193 (9th Cir. 2003). We must therefore affirm the IJ's finding "unless any reasonable adjudicator would be compelled to conclude" that the petitioners had met their burden of establishing either past persecution, a well-founded fear of future persecution, or a clear probability of persecution or torture. 8 U.S.C. § 1252(b)(4)(B); *see also INS v. Elias-Zacarias,* 502 U.S. 478, 481 n.1 (1992).

Substantial evidence supports the finding of the IJ that the petitioners failed to establish sufficient individualized harm or risk of future harm as members of Indonesia's Christian minority to be eligible for asylum on the basis of past persecution or a well-founded fear of future persecution at the hands of factions

within the Muslim majority. *See Mgoian v. INS,* 184 F.3d 1029, 1035 n.4 (9th Cir. 1999) (holding that court must consider *both* applicant's membership in "disfavored group" *and* applicant's "individual risk level"). The petitioners therefore necessarily failed to meet the more stringent evidentiary standard required for withholding of removal or relief under the Convention Against Torture. *See Fisher v. INS,* 79 F.3d 955, 961 (9th Cir. 1996) (en banc).

PETITION FOR REVIEW DENIED.

APPENDIX B

U.S. Department of Justice
Executive Office for Immigration Review

Falls Church, Virginia 22041

Decision of the Board of Immigration Appeals

File: A75-694-789 - Los Angeles

Date: DEC 18 2002

In re: SOUTH, RAYMOND GERALD A

IN REMOVAL PROCEEDINGS

APPEAL

ON BEHALF OF RESPONDENT: Prince, Thomas S., Esquire

ORDER:

PER CURIAM. The Board affirms, without opinion, the results of the decision below. The decision below is, therefore, the final agency determination. *See* 8 C.F.R. § 3.1(e)(4).

FURTHER ORDER: Pursuant to the Immigration Judge's order and conditioned upon compliance with conditions set forth by the Immigration Judge and the statute, the alien is permitted to voluntarily depart from the United States, without expense to the Government, within 30 days from the date of this order or any extension beyond that time as may be granted by the district director. *See* section 240B(b) of the Immigration and Nationality Act; 8 C.F.R. §§ 240.26(c), (f). In the event the alien fails to so depart, the alien shall be removed as provided in the Immigration Judge's order.

NOTICE: If the alien fails to depart the United States within the time period specified, or any extensions granted by the district director, the alien shall be subject to a civil penalty of not less than $1,000 and not more than $5,000, and shall be ineligible for a period of 10 years for any further relief under section 240B and sections 240A, 245, 248, and 249 of the Immigration and Nationality Act. *See* section 240B(d) of the Act.

FOR THE BOARD